

REMARKS:

This application has been carefully studied and amended in view of the Office Action dated July 27, 2005. Reconsideration of that action is requested in view of the following.

The indication of allowability of claim 11 is noted with appreciation. Claim 11 has now been written in independent form and should be formally allowed.

Claim 1 has been amended to define a preferred use of the door stop with regard to being mounted around the bottom edge of a door. Amendments have been made to various other claims as will be later discussed. Claim 14 has been canceled since its subject matter is now included in claim 1. Claims 19-21 have been added to complete the claim coverage.

Claims 6-9 have been amended in view of the rejection of claims 7-9 under 35 USC 112. As correctly pointed out by Examiner Mah claims 7-9 had inconsistently referred to the "said one vertical wall". In fact, what had been intended in referring to the bowed wall in reference to was the wall opposite the vertical wall having the spacing member. In view of this, claim 6 has been amended to refer to that opposite wall as "the other of said vertical walls" and claims 7-9 have been amended for consistency by referring to the bowed wall as being "said other vertical wall".

Reconsideration is respectfully requested of the rejection

of parent claims 1 and 17 and their dependent claims.

As now amended claim 1 corresponds to claim 14 which, along with claim 17, was previously rejected as unpatentable over Morita in view of Weinberger '141. Claim 1 relates to a preferred practice of the invention wherein the door stop is of the recited construction and is mounted around the bottom edge of the door. Claim 17 is the counterpart method claim. As clearly shown in both Morita and Weinberger the door stops of those patents are expressly mounted at the top of the door.

In rejecting claim 14 and corresponding method claim 17 Examiner Mah took the position that mounting the door stop around the bottom edge would simply be a rearranging of parts. Applicant does not agree with this conclusion. If a simple rearrangement of parts was all that would be involved, then the results of that rearrangement would be expected to be the same in either version of the arrangement. That, however, is not the case with regard to the mounting of a door stop around the bottom edge of a door as defined in claim 1 and also in method claim 17. Mounting a door stop around the top edge of the door is actually the arrangement that would be obvious to one of ordinary skill in the art since the top edge of a door is much more readily accessible. Thus, there would be very little difficulty in disposing the door stop around the top edge of the door as is done in both Morita and Weinberger. Applicant, however, defines

in claims 1 and 17 an unobvious alternative of selecting the bottom edge of the door as the location for the door stop despite the clear disadvantage of being much less readily accessible. This unobvious location, however, is distinctly superior to locating the door stop at the top edge of the door. For example, when a door stop is mounted at the top edge of the door and the door is swung toward the wall, any projection, such as the claimed spacing member, would have a path of motion toward the wall itself. The force imparted by swinging the spacing member into the wall could result in damage to the wall, particularly where the wall is made of conventional materials such as sheet rock. Applicant, however, has realized that conventionally a wall is commonly provided with molding along the lower portion of the wall adjacent to the floor of a room. By locating the door stop around the bottom edge of the door the spacing member defined in claim 1, and as used in method claim 17, would have a path of motion so that when the door is swung open contact by the spacing member would actually be with molding on the wall rather than with the wall itself. Contact with the molding (made from sturdier material than the wall) would not result in the type of damage when the door is swung open as would otherwise result if the spacing member made direct contact with the bare wall which would occur with a top mounted door stop.

By mounting the door stop around the bottom edge of the door

as defined in parent claims 1 and 17 to take advantage of wall molding, the present invention also lends itself to being able to use the molding as the site of location of, for example, a magnet when the door stop arrangement includes a magnet to attract a spacing member capable of magnetic attraction.

With the above features in mind claims 19-21 have been added. Claim 19 is a method claim dependent on claim 17 and specifically defines the room wall as having molding in the path of motion of the spacing member so that when the door is swung open the spacing member is moved toward the molding rather than the bare wall. Similarly, claim 20 is dependent on claim 1 and also defines the door stop as being used with a room wall having molding in the path of motion of the spacing member. Claim 21 is dependent on claim 20 and includes the feature of a magnet secured to the molding with the free end of the spacing member being made of a material capable of magnetic attraction.

It is to be understood that while there are distinct advantages of having the claimed bottom edge mounted door stop used in conjunction with a wall having molding the invention in its broad aspect, should not be limited to requiring the use of molding unless otherwise recited in a particular claim. In that regard, the selection of the bottom edge of the door as the location for mounting the door stop in itself is an unobvious location and merits patentability. Such location has advantages

even where the wall does not have molding in the path of motion of the spacing member. For example, cushioning material, reinforcing material or other material could be mounted to the wall for being contacted by the spacing member. Even where no specific spacing member contacting material is provided, any damage or blemish caused in the wall adjacent the floor by a swinging open of the door would be less noticeable than damage caused at a location near the top edge of a door.

A further advantage of mounting the door stop to the bottom edge of the door where the wall has molding is that the molding itself could be used as a support for easily securing a contact member such as a magnet, as defined in claim 21. This could be done through the use of a simple fastener where the magnet or contact member could be of generally small size unobtrusively located near the floor of the room. This is in contrast to more complicated fastening arrangements which would have to be used where a contact member is mounted directly to the wall without any intermediate molding, such as in the prior art.

The prior art which had been cited but not applied in any of the rejections has been reviewed with regard to any disclosure of mounting a door stop around the bottom edge of a door. Of this prior art note is made of the Westlund patent (U.S. Patent No. 2,568,477) which discloses a door check mounted around the bottom

edge of a door. Significantly, however, the purpose of this location is to utilize a brush as a means for checking or slowing the door movement rather than a spacing member having a contact tip which would move freely and then halt door movement when the tip makes contact with some fixed object such as a wall or wall molding. In that regard, Westlund specifically states, "The contact of the brush with the floor serves to slow the swinging movement of the door to thus check the door." (col. 1, line 55 to col. 2, line 2) As such, Westlund provides no motivation for rearranging the location of the Morita or Weinberger door stops from the top edge to around the bottom edge since neither Morita nor Weinberger utilizes a brush as part of its door stopping or checking mechanism. Accordingly, there would be no motivation from these patents to change the location of the Morita or Weinberger door stops unless such change also included the brush structure which is an integral component of the door check of Westlund. This would, however, result in a complete redesign of the Morita and Weinberger door stops from a contact type door stop as is done with the present invention to a sweeping or brush slowing door check as is done in Westlund. In the absence of some suggestion for such redesign Westlund could not be reasonably relied upon for a teaching of changing the location of the Morita and/or Weinberger door stops.

Claim 10 has been amended to clarify the location of the

hole which is in the U-shaped base by being an exposed hole in one of its walls to permit the stop to be hung during periods of non-use. In rejecting claim 10 Examiner Mah had referred to hole 5a of the Morita '662 patent. As illustrated in Figure 1, however, the hole 5a is not exposed. Rather, it is covered on one side by washer 7 and on the other side by washer 8.

For the reasons submitted above this application should be passed to issue.

Respectfully Submitted,

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